

EXHIBIT 1

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CITY OF SEATTLE
MAYOR'S OFFICE

KING COUNTY SUPERIOR COURT
STATE OF WASHINGTON

EULOGIA MORALES-CAYETANO,
A married woman,
Plaintiff,
vs.

Case No.: 13-2-37129-4SEA

CITY OF SEATTLE,
a Washington municipal corporation;
JOHN DIAZ and "JANE DOE"
DIAZ, husband and wife, and the
marital community of them comprised;
BRANDON EGGERS and "JANE DOE"
EGGERS, husband and wife and the
marital community of them comprised;
LINDSAY C. BROWN and "JANE DOE"
BROWN, husband and wife and the
marital community of them comprised;
DAVID L. BAUER and "JANE DOE"
BAUER, husband and wife and the
marital community of them comprised.
Defendants.

SUMMONS

TO THE DEFENDANTS:

A lawsuit has been started against you in the above entitled court by Eulogia Morales-Cayetano, Plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, if served within of the state of

1 Washington, and 60 days after the service of this summons, if served outside of the State
2 of Washington, excluding the day of service, or a default judgment may be entered
3 against you without notice. A default judgment is one where plaintiff is entitled to what
4 (s)he/they ask(s) for because you have not responded. If you serve a notice of
5 appearance on the undersigned person, you are entitled to notice before a default
6 judgment may be entered.

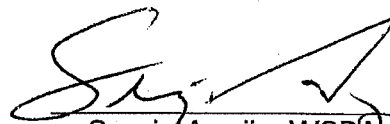
7 You may demand that the plaintiffs file this lawsuit with the court. If you do so, the
8 demand must be in writing and must be served upon the person signing this summons.
9 Within 14 days after you serve the demand, the plaintiffs must file this lawsuit with the
10 court, or the service on you of this summons and complaint will be void.

11 If you wish to seek the advice of an attorney in this matter, you should do so
12 promptly so that your written response, if any, may be served on time.

13 This summons is issued pursuant to rule 4 of the Superior Court Civil Rules of the State
14 of Washington.

15 **DATED** this 25th day of October, 2013

16 **ARMIJO LAW OFFICES**

17 

18 Sergio Armijo, WSBA #8663
19 Attorney for Plaintiff

20 Address of Plaintiff's Attorney:

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22 Tacoma, WA 98403

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EULOGIA MORALES-CAYETANO
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v.

CITY OF SEATTLE,
A Washington municipal corporation;
JOHN DIAZ and "JANE DOE" DIAZ,
husband and wife, and the marital community
of them comprised; BRANDON EGGERS
and "JANE DOE" EGGERS, husband and
wife, and the marital community of them
comprised; LINDSAY C. BROWN and
"JOHN DOE" BROWN, husband and wife
and the marital community of them
comprised; DAVID L. BAUER and
"JANE DOE" BAUER, husband and wife
and the marital community of them
comprised;

Defendants.

Cause No.

13-2-37129-4SEA

COMPLAINT FOR DAMAGES

COMES NOW the plaintiff by and through her attorney of record, Sergio Armijo,
and complain and alleges as follows:

COMPLAINT FOR DAMAGES

I. PARTIES AND JURISDICTION

1.1 Plaintiff EULOGIA MORALES-CAYETANO was, at all times material, a resident of King County, Washington, and is competent to bring on the present claim.

1.2. Defendant CITY OF SEATTLE is, and at all times mentioned was, a municipal corporation, duly organized under the laws of the State of Washington, and situated in King County.

1.3. Defendant JOHN DIAZ at all times relevant was, Chief of the Seattle Police Department. In particular, he was appointed interim Chief in May, 2009, and confirmed as Chief of the Seattle Police in August 2010. He then served as Chief of the Seattle Police continuously until his retirement on April 8, 2013. At all times mentioned, from May, 2009 until April 8, 2013, defendant John Diaz was an employee of defendant City, was employed as Chief of the City of Seattle's Police Department, and, in engaging in the acts and omissions described below, acted within the course and scope of that employment.

1.4. Defendant BRANDON EGGERS, City of Seattle police officer #7593, is, and at all times relevant was, a resident of King County, Washington, and a police officer of defendant City of Seattle. In engaging in the acts and omissions described below, Brandon Eggers, acted within the course and scope of his employment.

1 1.5 Defendant LINDSAY BROWN, City of Seattle police officer #7536, is, and at all
2 times relevant was, a resident of King County, Washington, and a police officer of
3 defendant City of Seattle. In engaging in the acts and omissions described below,
4 Lindsay Brown acted within the course and scope of her employment.
5

6
7 1.6 Defendant DAVID BAUER, City of Seattle police officer #5096, is, and at all times
8 relevant was, a resident of King County, Washington, and a police officer of defendant
9 City of Seattle. In engaging in the acts and omissions described below, David Bauer
10 acted within the course and scope of his employment.
11

12
13 1.7 At all times relevant, defendant CITY OF SEATTLE was responsible for all acts
14 and omissions of its agents and employees in the instant matter under the doctrine of
15 *respondeat superior*.
16

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19 1.8. The defendants John Diaz and "Jane Doe" Diaz; Brandon Eggers and
20 "Jane Doe" Eggers; Lindsay C. Brown and "John Doe" Brown; and David Bauer and
21 "Jane Doe" Bauer at all times relevant comprised a marital community. That all acts
22 and omissions of John Diaz, Brandon Eggers, Lindsay C. Brown, and David Bauer,
23 as complained of herein, were performed by them for, and on behalf of, themselves
24 and the marital community of them comprised.
25
26

1 1.9. All acts of the above identified Defendants giving rise to liability in this
2 Complaint occurred in King County, Washington.

3
4
5 1.10. Plaintiff, through undersigned counsel, filed a Claim for Damages form issued
6 by the City of Seattle with the City of Seattle in February, 2013.. Because more than
7 sixty days have passed since this filing, this court has jurisdiction pursuant to RCW
8 4.92.110.

9
10
11 1.11. Jurisdiction and venue are proper in King County, Washington

12 13 II. FACTUAL BACKGROUND

14
15 2.1 On or about November 4, 2010, at 9:00 p.m. plaintiff Eulogia Morales-Cayetano
16 ("Ms. Morales"), her husband Rufino Ocampo Estrada ("Mr. Ocampo"), their son
17 Emmanuel Ocampo-Estrada ("Emmanuel"), and Ms. Morales' nephew Magdaleno
18 were on the premises of the Viking Bank at 5701 First Avenue, Seattle, King County,
19 Washington.

20
21
22 2.3 At the date and time noted in Paragraph 2.1 above, plaintiff Ms. Morales, Mr.
23 Ocampo, Emmanuel, and Magdaleno were invitees of Viking Bank, in that they had a
24 contract to clean the premises at that date and time.
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2 2.4 Plaintiff Ms. Morales, Mr. Ocampo, Emmanuel, and Magdaleno are Hispanic and
3 natives of Mexico.
4

5
6 2.5 Also at or about 9:00 p.m. on November 4, 2010, defendant Brandon Eggers
7 ("Officer Eggers"), was dispatched to the Last Chance Chili Shack (hereinafter "Last
8 Chance"), a tavern across the street from the Viking Bank referenced in Paragraph
9 2.1 above, reference a complaint that two male patrons that had been ordered to leave
10 the tavern for bringing alcohol from outside onto the premises were hovering around
11 the front door and staring the bartender down in a threatening manner.
12

13
14 2.6 Shortly before the dispatch, Emmanuel and Magdaleno, having completed their
15 job assignments on the Viking Bank cleaning contract, entered the Last Chance, and
16 were confronted by the bartender, who accused them of trying to bring beer from
17 outside into the tavern. Emmanuel and Magdaleno, however, left the Last Chance
18 without incident.
19

20
21 2.6 Emmanuel and Magdaleno, although leaving the premises of the Last Chance ,
22 did not leave the vicinity of the Last Chance, since they had been working with
23 plaintiff Ms. Morales and Mr. Ocampo at the Viking Bank. They stood by the door
24 outside the Last Chance, waiting for Mr. Ocampo to pick them up in his car.
25
26

1
2 Mr. Ocampo picked Emanuel and Magdaleno up and brought them back to the
3 parking lot adjacent to the Viking Bank, where they stood with Mr. Ocampo by the
4 family car.. The Last Chance bartender had observed their continued presence, and
5 alarmed, had called the Seattle Police.
6

7
8 2.7 Emmanuel then walked away from the family car to the entrance of the Viking
9 Bank to meet his mother, Ms. Morales, who was walking out of the bank. Plaintiff
10 Ms. Morales, Mr. Ocampo, Emanuel, and Magdaleno were preparing to go home.
11

12
13 2.8 Officer Eggers first contacted the complainant bartender inside the Last Chance,
14 and obtained her description of the situation and her concerns about Emanuel,
15 Magdaleno, and Mr. Ocampo whom she apparently believed were menacing the Last
16 Chance tavern.
17

18
19 2.9 Officer Eggers next contacted the occupants of the family car in the parking lot
20 next to the Viking Bank. At this time Mr. Ocampo was sitting in the driver's seat and
21 Magdaleno was sitting in the back seat.
22

23
24 2.10 At the time that Officer Eggers contacted the occupants of the family car in the
25 parking lot next to the Viking Bank, there were at least three Seattle police officers
26 in at least two squad cars present at the scene to investigate plaintiffs' activities.

Additional officers may have been present at the time or shortly thereafter.

COMPLAINT FOR DAMAGES

1 2.11 Officer Eggers asked Mr. Ocampo for his driver's license and then he conducted a
2 computer check of the drivers license. Officer Eggers was accompanied by defendants
3 David L. Bauer (hereinafter "Officer Bauer") and defendant Lindsay C. Brown
4 ("Officer Brown") in the investigation of the occupants of the family car. The three
5 defendant police officers kept yelling at Mr. Ocampo to keep his hands on the
6 dashboard and Magdaleno to keep his hands on the back of the driver's seat.
7

8
9 2.12 Officer Bauer, according to the incident report, saw Magdaleno remove his hands
10 from the back of the driver's seat too often and ordered him out of the car for
11 investigative detention.
12

13
14 2.13 Both Mr. Ocampo and Magdaleno understand English to only a limited extent,
15 and did not understand the officers' commands. Both were becoming increasingly
16 frightened.
17

18
19 2.14 Immediately after Ms. Morales' nephew was detained, Ms. Morales and
20 Emmanuel exited the bank after routinely setting the alarm as their last work
21 assignment for the evening. Both were shocked and confused by the police presence,
22 obviously focused intensely on Mr. Ocampo and Magdaleno.
23
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1 Defendants Officer Brown and Officer Bauer, apparently alarmed by Ms. Morales and
2 Emmanuel leaving the bank well after business hours, on top of the heightened
3 tension in the investigative detention of Mr. Ocampo and Magdaleno, rushed at Ms.
4 Morales and Emmanuel and forcibly pushed them against the wall of the bank.
5

6
7 2.15 Emmanuel, the only one of the group who could speak English, repeatedly
8 demanded to know why the police were there without a response from Officers Brown
9 or Bauer. Officers Brown and Bauer reacted with force to Emmanuel's verbal
10 demands, and began beating, shoving, and grabbing him.
11

12
13 2.19 Ms. Morales begged Officers Brown and Bauer to stop beating, shoving, and
14 grabbing Emmanuel in Spanish, and, as a result, the officers began beating, shoving,
15 and grabbing Ms. Morales.
16

17
18 2.20 Mr. Ocampo tried to run to the aid of Ms. Morales and Emmanuel, and, as a
19 result, he was beaten, shoved, and grabbed by Officer Eggers and accordingly kept in
20 the vicinity of the family car by Officer Eggers.
21
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1 2.21 Mr. Ocampo was booked, jailed, and charged with first degree trespass and
2 misdemeanor assault in Seattle Municipal Court. The charges were subsequently
3 dismissed.
4

5
6 2.22 Ms. Morales and Emmanuel were also booked, jailed, and charged with
7 misdemeanor assault in Seattle Municipal Court. Emmanuel was convicted on a plea
8 of guilty and deported.
9

10
11 2.23 Plaintiff Ms. Morales, Mr. Ocampo, and Emmanuel all had to receive medical
12 treatment for their injuries.
13

14 2.24 Plaintiff Ms. Morales also suffered severe emotional distress and mental
15 anguish. She was diagnosed with post-traumatic stress disorder and had to receive
16 several months of therapy and psychiatric treatment, including medication.
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III. FIRST CAUSE OF ACTION: NEGLIGENCE

3.1 Plaintiff adopts and realleges Paragraphs 1.1 through 2.24 of this Complaint as set forth in full here.

3.1 When Officers Brown and Bauer began shoving, grabbing kicking, and beating Ms. Morales, and Emmanuel, they breached their duty to act in a reasonable and prudent manner by their initial offensive touching of plaintiffs Ms. Morales and their subsequent use of excessive force against plaintiffs Ms. Morales. Defendant police officers' actions were unreasonable and totally without justification.

3.2 As a direct and proximate result of the tortious conduct of defendants as described above, plaintiff Ms. Morales has suffered damages as described below in Section V. (entitled "Damages") of this Complaint.

3.3 Defendant John Diaz and defendant City of Seattle had a duty to ensure that defendant police officers Eggers, Brown, and Bauer, had the proper and special training for the duties that said defendant police officers could foreseeably be expected to perform in the course of their employment with defendant City of Seattle, especially with regard to determination of probable cause to detain and arrest, and especially with regard to the application of the use of force to either control, detain, or arrest other individuals, and in the determination of when it is appropriate to use force to control, detain, or arrest other individuals.

COMPLAINT FOR DAMAGES

1
2 3.5 Defendant John Diaz and defendant City of Seattle breached the duties
3 referenced in paragraph 3.4 above, and, as a proximate cause of their tortious acts
4 and omissions, plaintiff Ms. Morales has suffered damages as described below in
5 Section V. of this Complaint.
6

7
8 IV. SECOND CAUSE OF ACTION: STATUTORY
9 VIOLATION OF CONSTITUTIONAL RIGHTS
10

11 4.1 Plaintiffs adopt and reallege Paragraphs 1.1 through 3.5.
12

13 4.2 This cause of action arises under the United States Constitution, particularly
14 under the provisions of the First, Fourth, Eighth, and Fourteenth Amendments of the
15 United States Constitution, and, under federal law, under the Civil Rights Act, Title
16 42 of the United States Code, Section 1983.
17

18
19 4.3 The conduct of defendants as described above, acting under color of state law, and
20 acting recklessly in a grossly negligent manner, and with deliberate indifference to
21 plaintiff's rights, privileges, and immunities, deprived plaintiffs of the right to be free
22 from unreasonable searches and seizures, including the use of excessive force, under
23 the Fourth Amendment of the U.S. Constitution; and the right not to be deprived of
24 liberty, or property without due process of law and to be accorded the equal protection
25 of the laws under the Fourteenth Amendment of the U.S. Constitution.
26

1
2 4.4 As a direct and proximate cause of the acts and omissions as described in
3 Paragraphs 1.1 through 5.3 above, plaintiff has been damaged as described in
4 "Section V. Damages" below.
5
6

7 V. DAMAGES
8

9 5.1 Plaintiff adopts and realleges paragraphs 1.1 through 4.4.
10
11

12 5.2 As a direct and proximate result of defendants' actions and omissions as
13 described above, plaintiffs have suffered severe physical and mental injuries,
14 resulting in medical expenses and other out-of-pocket expenses, for which they are
15 entitled to fair and reasonable compensation.
16
17

18 5.3 As a direct and proximate result of defendants' actions and omissions as
19 described above, plaintiffs have suffered loss in income from their respective forms of
20 employment, and are entitled to fair and reasonable compensation.
21
22

23 5.4 As a direct and proximate result of defendants' actions and omissions as described
24 above, plaintiffs have suffered severe physical pain and suffering, and are entitled to
25 fair and reasonable compensation.
26

1
2 5.5 As a direct and proximate result of defendants' acts and omissions, plaintiffs
3 have suffered mental anguish and emotional distress, and are entitled to fair and
4 reasonable compensation.
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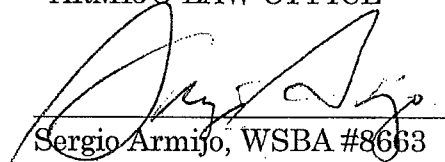
6
7 5.6 As a direct and proximate result of the violations of plaintiffs' Constitutional and
8 civil rights as pled in Paragraphs 4.1 through 4.4 under Title 42 of the United States
9 Code, Section 1983, plaintiffs are entitled to punitive damages.
10

11
12 WHEREFORE, plaintiff Eulogia Morales-Cayetano prays for judgment
13 against defendants severally, individually, and as a marital community, as follows:
14

- 15 1. For special damages as detailed in Paragraphs 5.2 and 5.3 above.
16
17 2. For general damages as detailed in Paragraphs 5.4 and 5.5 above.
18
19 3. For punitive damages as detailed in Paragraph 5.6 above.
20
21 4. For reasonable attorneys' fees.
22
23 5. For prejudgment interest on all special damages.
24
25 6. For costs and disbursements herein.
26
27 7. For such other and further relief as the Court deems just and equitable.

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2
3
4 Dated this 25th day of October , 2013
5

6 Respectfully submitted,
7 ARMIJO LAW OFFICE

8 
9 Sergio Armijo, WSBA #8663
10 Attorney for Plaintiff
11 Eulogia Morales-Cayetano
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